

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

COMMITTEE, AS PLAN ADMINISTRATOR)
OF THE PRUDENTIAL INSURANCE)
COMPANY OF AMERICA DEFERRED)
COMPENSATION PLAN, ET. AL.,)

Plaintiff,)

v.)

APRIL LAVENTURE AND BRIGITTE)
FAUTEUX, IN HER CAPACITY AS)
INDEPENDENT EXECUTOR OF THE)
ESTATE OF GEORGE V. LAVENTURE,)

Defendants.)

Civil Action No. 1:23-cv-00902

Hon. Steven C. Seeger

**AFFIDAVIT IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT PURSUANT TO
RULE 55 OF THE FEDERAL RULES OF CIVIL PROCEDURE**

Dominic G. Erbacci, being sworn upon oath, does depose and state as follows:

1. The undersigned is counsel for Brigitte Fauteux, in her capacity as independent executor of the Estate of George V. LaVenture (“Fauteux”) and is authorized to make this Affidavit.

2. The undersigned is familiar with the material allegations contained in the Plaintiff’s Interpleader Complaint, Fauteux’s Answer to Complaint, and Fauteux’s Motion for Default Judgment against April LaVenture (“LaVenture”).

3. On February 14, 2023, Plaintiff filed its Interpleader Complaint.

4. On March 8, 2023, LaVenture, a competent adult person, was served with copies of the summons and Complaint. See Proof of Service attached hereto as **Exhibit A**.

5. As of the date of this Affidavit, LaVenture has not filed an appearance, answer, or pleading in this matter.

6. On May 12, 2023, Fauteux filed and served her Motion for Default Judgment on LaVenture with a presentment date of at least 7 days from the date of service pursuant to Federal Rules of Civil Procedure 55(b)(2).

7. Fauteux is seeking the entry of a default judgment against LaVenture as to Plaintiff's Interpleader Complaint.

8. On May 12, 2023, Fauteux's counsel accessed the Department of Defense Manpower Data Center to determine whether LaVenture is currently on active military duty. Based upon counsel's findings, LaVenture is not on active duty and, therefore, the Soliders' and Sailors' Civil Relief Act of 1940 does not apply. See Affidavit as to Military Service attached hereto as **Exhibit B**.

8. The sum of \$682,257.31 is the amount at issue in this interpleader action.
AFFIANT SAYETH NAUGHT.

CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein states to be on information and belief and as to such matters the undersigned certifies are aforesaid he verily believes the same to be true.

Dated: May 12, 2023

/s/ Dominic G. Erbacci
Dominic G. Erbacci, Esq.

EXHIBIT

A



20230306111527

AO 440 (Rev. 06/12) Summons in a Civil Action

RETURN OF SERVICE

SERVICE OF: SUMMONS, INTERPLEADER COMPLAINT, EXHIBITS, CIVIL COVER SHEET, CORPORATE DISCLOSURE
 EFFECTED (1) BY ME: STATEMENT, ATTORNEY APPEARANCE FORM
 TITLE: Steve Jenkins
 PROCESS SERVER

DATE: 3-8-2023 8:45 AM

CHECK ONE BOX BELOW TO INDICATE APPROPRIATE METHOD OF SERVICE:

☐ Served personally upon the defendantAPRIL LAVENTURE

Place where served:

504 SHANNON BRG DYER IN 46311☒ Left copies thereof at the defendant's dwelling house or place of business with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left:JANICE GLUCKERTRelationship to defendant MOTHER

Description of Person Accepting Service:

SEX: F AGE: 70 HEIGHT: 5-7 WEIGHT: 145 SKIN: W HAIR: GRY OTHER: Wink Glasses☒ To the best of my knowledge, said person was not engaged in the U.S. Military at the time of service

STATEMENT OF SERVER

TRAVEL \$ _____

SERVICES \$ _____

TOTAL \$ _____

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in this Return of Service and Statement of Server is true and correct.

Docusign Court Approved E-Signature

DATE: 3/8/2023Steve Jenkins L.S.SIGNATURE OF Steve Jenkins

ATTORNEY: HEATHER D. ERICKSON, ESQ.
 PLAINTIFF: COMMITTEE, AS PLAN ADMINISTRATOR OF THE PRUDENTIAL INSURANCE
 DEFENDANT: COMPANY OF AMERICA DEFERRED COMPENSATION PLAN AND THE
 VENUE: PRUDENTIAL INSURANCE COMPANY OF AMERICA,
 DOCKET: APRIL LAVENTURE, ET AL
 COMMENT: DISTRICT
 1 23 CV 00902

EXHIBIT

B

**IN THE UNITED STATES DISTRICT COURT FOR THE
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Defendants.)

AFFIDAVIT AS TO MILITARY SERVICE

Dominic G. Erbacher on oath states:

With respect to Defendant April LaVenture, the Defendant is not in the military service of the United States. This Affidavit is based on these facts:

As of May 12, 2023, the Department of Defense Manpower Data Center reports that Defendant April LaVenture is not currently on Active Military Duty (*see* attached hereto Exhibit A)

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

/s/ Dominic G. Erbacher

Dominic G. Erbacher, Esq.

Dominic G. Erbacher
ARDC# 6329651
Robbins DiMonte, Ltd.
216 W. Higgins Rd.
Park Ridge, IL 60068
Tel.: 847-698-9600
Atty. No. 99688
derbacher@robbinsdimonte.com

EXHIBIT

A



Status Report
Pursuant to Servicemembers Civil Relief Act

SSN: XXX-XX-3792
Birth Date: Jan-XX-1976
Last Name: LAVENTURE
First Name: APRIL
Middle Name:
Status As Of: May-12-2023
Certificate ID: 3JDV9THJSNRY82L

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Michael V. Sorrento

Michael V. Sorrento, Director
Department of Defense - Manpower Data Center
400 Gigling Rd.
Seaside, CA 93955

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 3901 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q35) via this URL: <https://scra.dmdc.osd.mil/scra/#/faqs>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 3921(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.